

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KERRY ASHDOWN,

Index No. 13 CV 1374
(HB)(GWG)

Plaintiff,

-against-

EQUINOX, *a/k/a*
EQUINOX FITNESS CLUB *and incorporated as*
EQUINOX HOLDINGS, INC.,
MAURO MAIETTA,
LAWRENCE SANDERS, and
MATT PLOTKIN *a/k/a* MATTHEW PLOTKIN,

Defendants.

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**DECLARATION OF LAWRENCE S. ROSEN
IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

I, LAWRENCE S. ROSEN, declare as follows:

1. I am a partner at LaRocca Hornik Rosen Greenberg & Blaha LLP, attorneys for the defendants Equinox Holdings, Inc. d/b/a Equinox Fitness Club ("Equinox"), Mauro Maietta, Lawrence Sanders, and Matthew Plotkin, and I am personally familiar with the facts and circumstances set forth herein. I submit this declaration in support of defendants' motion for summary judgment for an Order dismissing each and every claim for relief asserted against them by plaintiff Kerry Ashdown ("plaintiff").

2. Attached as **Exhibit A** is a true and complete copy of plaintiff's Second Amended Complaint, dated May 24, 2013.

3. Attached as **Exhibit B** is a true and complete copy of Honorable Harold Baer, Jr.'s Order, dated July 3, 2013, granting all of the relief requested in defendants' 12(b)(6) motion to dismiss.

4. Attached as **Exhibit C** is a true and complete copy of the Transcript of plaintiff's Examination Before Trial, taken on August 27, 2013.

5. Attached as **Exhibit D** is a true and complete copy of the Transcript of Mauro Maietta's Examination Before Trial, taken on September 10, 2013.

6. Attached as **Exhibit E** is a true and complete copy of the Transcript of Lawrence Sanders' Examination Before Trial, taken on September 12, 2013.

7. Attached as **Exhibit F** is a true and complete copy of the Transcript of Matthew Plotkin's Examination Before Trial, taken on October 8, 2013.

8. Attached as **Exhibit G** is a true and complete copy of the Transcript of Joseph Matarazzo's Examination Before Trial, taken on August 28, 2013.

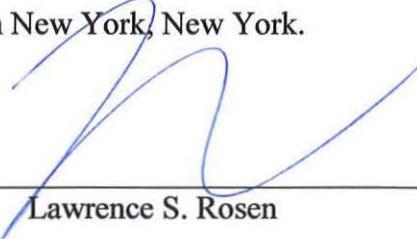
9. Attached as **Exhibit H** is a true and complete copy of the Commission Report reviewed in connection with the investigation leading up to the termination of plaintiff's employment.

10. Attached as **Exhibit I** is a true and complete copy of the IT Report reviewed in connection with the investigation leading up to the termination of plaintiff's employment.

11. Attached as **Exhibit J** is a true and complete copy of Equinox's "EAF" document pertaining to the termination of plaintiff's employment.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 25th day of October, 2013, in New York, New York.



Lawrence S. Rosen